

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NATHAN L. GUINN,	§	
	§	No. 569, 2011
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court of the
	§	State of Delaware, in and for Kent
v.	§	County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0207018218
Appellee.	§	

Submitted: January 12, 2012

Decided: April 4, 2012

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

O R D E R

This 4th day of April 2012, upon consideration of the opening brief filed by the appellant and the motion to affirm filed by the appellee, it appears to the Court that:

(1) The appellant, Nathan L. Guinn, filed this appeal from the Superior Court’s October 10, 2011 dismissal of his fourth motion for postconviction relief as procedurally barred pursuant to Superior Court Criminal Rule 61(i) (“Rule 61(i)”). The appellee, State of Delaware, has moved to affirm the Superior Court’s

judgment on the ground that it is manifest on the face of Guinn's opening brief that the appeal is without merit.¹ We agree and affirm.

(2) In 2003, Guinn was convicted of three drug offenses and was sentenced. On direct appeal, this Court affirmed the convictions.² Thereafter, Guinn filed three unsuccessful motions for postconviction relief and an unsuccessful petition for federal habeas corpus relief. Guinn also moved several times without success for the correction and/or reduction of his sentence.

(3) In his fourth motion for postconviction relief, Guinn alleged that the Superior Court erred when failing to suppress non-*Mirandized* statements that he made when he was in custody.³ By order dated October 10, 2011, the Superior Court dismissed Guinn's motion as procedurally barred under Rule 61(i)(1), (2), (3) and (4). This appeal followed.

(4) It is well-settled that when reviewing an appeal from the denial of postconviction relief, this Court will address any applicable procedural bars before considering the merit of any claim for relief.⁴ Having considered the Rule 61(i) procedural bars, the Court has determined, first, that Guinn's fourth postconviction

¹ See Del. Supr. Ct. R. 25(a) (governing motion to affirm).

² *Guinn v. State*, 841 A.2d 1239 (Del. 2004).

³ See *Miranda v. Arizona*, 384 U.S. 436, 471 (1966) (holding that statements obtained during custodial interrogation are inadmissible absent prior warning advising suspect of rights under Fifth Amendment).

⁴ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

motion, filed more than seven years after his convictions became final,⁵ is untimely under Rule 61(i)(1)⁶ and second, that it does not warrant further consideration because of “a miscarriage of justice.”⁷ It is also clear that the motion is repetitive under Rule 61(i)(2),⁸ and that the *Miranda* violation, which was previously considered both by this Court⁹ and the Federal District Court,¹⁰ is formerly adjudicated under Rule 61(i)(4).¹¹ On appeal, Guinn has made no showing that reconsideration of the repetitive motion or the formerly adjudicated claim is warranted in the interest of justice.¹²

NOW, THEREFORE, IT IS ORDERED that the State’s motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁵ See Rule 61(m)(2) (providing that a judgment of conviction is final when the Supreme Court issues its mandate or order finally determining the case on direct review). In this case, the convictions became final in February 2004 following Guinn’s direct appeal. Guinn filed his fourth motion for postconviction relief in July 2011.

⁶ See Del. Super. Ct. Crim. R. 61(i)(1) (barring claim filed more than three years after judgment is final) (amended 2005 to reduce filing period to one year).

⁷ See Del. Super. Ct. Crim. R. 61(i)(5) (providing that the procedural bar of (i)(1) shall not apply to a colorable claim that there was a miscarriage of justice because of a constitutional violation).

⁸ See Del. Super. Ct. Crim. R. 61(i)(2) (barring “[a]ny ground for relief that was not asserted in a prior postconviction proceeding”).

⁹ See *Guinn v. State*, 882 A.2d 178, 182 (Del. 2005) (affirming denial of motion for postconviction relief).

¹⁰ See *Guinn v. Carroll*, 2007 WL 471178 (D. Del. 2007) (dismissing habeas corpus petition).

¹¹ See Del. Super. Ct. Crim. R. 61(i)(4) (barring any claim “that was formerly adjudicated, whether . . . in a postconviction proceeding, or in a federal habeas corpus proceeding”).

¹² See Del. Super. Ct. Crim. R. 61(i)(2), (4) (providing for reconsideration of repetitive motion and/or formerly adjudicated claim “in the interest of justice”).